



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/072,350	02/07/2002	Edward Mactas	93318/4	4264

27614 7590 04/11/2006

MCCARTER & ENGLISH, LLP
FOUR GATEWAY CENTER
100 MULBERRY STREET
NEWARK, NJ 07102

EXAMINER

OUELLETTE, JONATHAN P

ART UNIT PAPER NUMBER

3629

DATE MAILED: 04/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/072,350

Applicant(s)

MACTAS ET AL.

Examiner

Jonathan Ouellette

Art Unit

3629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claim 32 is objected to because of the following informalities: The claim discloses the same element (calculating time-based low productivity costs associated with departure of the individual from the group and replacement of the individual) twice. Appropriate correction is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
 - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
3. **Claims 1-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eder (US 6,393,406 B1) in view of Appelbaum (Appelbaum, Steven H; Hood, Jamie, "Accounting for the firm's human resources," Managerial Auditing Journal, v8n2, pp: 17-24, 1993).**
4. As per **independent Claims 1, 12, and 22**, Eder discloses a method of computing a measure of individual value (C9 L63-67, C10 L1-5, Intangible element of value) to a group of which the individual is a member (Business enterprise), the method comprising: determining an individual cost associated with the individual with respect to the group (expense component); determining an individual revenue associated with the individual cost, for the individual with

respect to the group (revenue component); and calculating an individual value, in accordance with the determined individual cost and the determined individual revenue, that quantifies the value of the individual to the group (Claim 1, intangible element value).

5. Eder fails to expressly disclose wherein the determined individual revenue includes a computed Actuarial Replacement Value (ARV).
6. Appelbaum discloses wherein Human resources costs (which include expense and asset components), includes a replacement cost of current employees (pg.4, Theory Base).
Appelbaum also discloses calculating the value of an employee for coordination with the replacement cost model (pg.6, The Value of Human Resources).
7. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included wherein the determined individual revenue includes a computed Actuarial Replacement Value (ARV), as disclosed by Appelbaum in the system disclosed by Eder, for the advantage of providing a method of computing a measure of individual value to a group of which the individual is a member, with the ability of increasing the effectiveness of the system by incorporating several inputs that increase the dependability of the valuation estimate.
8. As per Claims 2, 13, and 23, Eder and Appelbaum disclose wherein determining individual revenue includes calculating expected revenues generated by the individual while in the group (Appelbaum: Pg.6).
9. As per Claims 3, 14, and 24, Eder and Appelbaum fail to expressly disclose wherein computing ARV includes calculating time-based low productivity costs associated with departure of the individual from the group and replacement of said individual.

10. However, Appelbaum does disclose calculating the replacement cost of an employee to include *costs attributable to the turnover of a present employee*, as well as the cost of acquiring and developing a replacement, and it would have been obvious to one of ordinary skill in the art at the time the invention was made to include a decrease in production as a cost to the organization when a skilled employee is lost and must be replaced, due to new hire learning curve conditions.
11. As per Claims 4, 15, and 25, Eder and Appelbaum fail to expressly disclose computing ARV includes calculating a time-based vacancy cost associated with departure of the individual from the group and replacement of said individual.
12. However, Appelbaum does disclose calculating the replacement cost of an employee to include *costs attributable to the turnover of a present employee*, as well as the cost of acquiring and developing a replacement, and it would have been obvious to one of ordinary skill in the art at the time the invention was made to include a time-based vacancy cost to the organization when a skilled employee is lost and must be replaced, due to the time-based loss in production formally completed by the lost employee.
13. As per Claims 5, 16, and 26, Eder and Appelbaum disclose wherein computing ARV includes calculating a new-hire risk cost that includes the computation of expected working lifetime of the individual and of a replacement for the individual (Appelbaum, Pg. 6, calculating individual value to include services the individual is expected to provide during period he or she is anticipated to remain in the organization – value used in Replacement Cost Model).

14. As per Claims 6, 17, and 27, Eder and Appelbaum disclose wherein computing ARV includes obtaining data relating to staffing costs and separation costs, productivity costs, vacancy costs, and new-hire risk costs, and then calculating the individual value metric in accordance with the determined individual cost and the determined individual revenue (Appelbaum, Pgs. 4 and 6).
15. As per Claims 7, 18, and 28, Eder and Appelbaum disclose wherein: determining individual revenue includes calculating expected revenues generated by the individual while in the group; and computing ARV includes calculating time-based low productivity costs associated with departure of the individual from the group and replacement of the said individual; calculating a time-based vacancy cost associated with departure of the individual from the group and replacement of said individual; and calculating a new-hire risk cost that includes the computation of expected working lifetime of the individual and of a replacement for the individual (Appelbaum, Pgs. 4 and 6).
16. As per Claims 8, 19, and 29, Eder and Appelbaum disclose determining an iRevenue value, defined as the present value of minimum expected revenues to be earned for the group by the individual under consideration; and determining an iCost value, defined as the present value of expected wages to be paid by the group to the individual under consideration; wherein the individual value to the group is determined by the difference of iRevenue and iCost for the individual under consideration (Eder: C9).
17. As per Claims 9, 20, and 30, Eder and Appelbaum disclose determining an iProfit value for a year n , defined as the difference of expected revenue $E(R_{\text{sub}.n})$ contributed to the group by

the individual under consideration and the expected cost $E(C_{sub.n})$ to the group of the individual under consideration for year n (Eder: C9, Table 3).

18. As per Claims 10, 21, and 31, Eder and Appelbaum disclose determining an annual value of the individual to the group by dividing the difference of $iRevenue$ and $iCost$ by the expected working lifetime of the individual under consideration (Appelbaum, Pgs.4 and 6).
19. As per Claims 11, Eder and Appelbaum disclose computing an Actuarial Revenue Wage Load Factor (ARWLF) that utilizes ARV to provide an ARWLF value for each individual under consideration and to indicate that individual's relative revenue contribution to the group with respect to all other individuals in the group, thereby creating a means of comparing individuals (Appelbaum, Pgs.4 and 6).
20. **Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Appelbaum.**
21. As per **independent Claim 32**, Appelbaum discloses a method for computing an Actuarial Replacement Value of an individual to a group of which the individual is a member, the method comprising: calculating a new-hire risk cost that includes the computation of expected working lifetime of the individual and of a replacement for the individual; obtaining data relating to staffing costs and separation costs, productivity costs, vacancy costs, and new-hire risk costs; and combining the above-derived quantities.
22. Appelbaum fails to expressly disclose calculating a time-based low productivity costs associated with departure of the individual from the group and replacement of the individual; calculating a time-based vacancy cost associated with departure of the individual from the group and replacement of the individual.

Art Unit: 3629

23. However, Appelbaum does disclose calculating the replacement cost of an employee to include *costs attributable to the turnover of a present employee*, as well as the cost of acquiring and developing a replacement, and it would have been obvious to one of ordinary skill in the art at the time the invention was made to include a decrease in production as a cost to the organization when a skilled employee is lost and must be replaced, due to new hire learning curve conditions.
24. Furthermore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include a time-based vacancy cost to the organization when a skilled employee is lost and must be replaced, due to the time-based loss/lag in production formally completed by the lost employee.

Conclusion

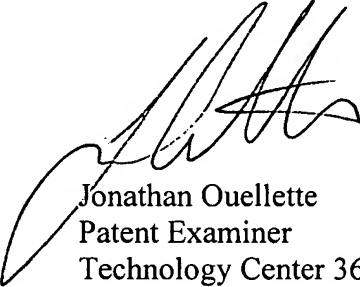
25. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
26. Additional Literature has been referenced on the attached PTO-892 form, and the Examiner suggests the applicant review these documents before submitting any amendments.
27. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan Ouellette whose telephone number is (571) 272-6807. The examiner can normally be reached on Monday through Thursday, 8am - 5:00pm.
28. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone numbers for the organization

Art Unit: 3629

where this application or proceeding is assigned (571) 273-8300 for all official communications.

29. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Office of Initial Patent Examination whose telephone number is (703) 308-1202.

April 5, 2006



Jonathan Ouellette
Patent Examiner
Technology Center 3600